

REMARKS

Currently, claims 17-18, 22-28, 32, and 34-45, including independent claims 17 and 35, are pending in the present application. New claims 46 and 47 have been added herewith.

In the Office Action, Claim 17 was objected to under 35 U.S.C. §112. Without commenting on the propriety of this rejection, the Claim 17 has been amended herewith to require that the activated carbon ink include only activated carbon particles and at least one binder. It is respectfully requested that the objection be withdrawn.

In the Office Action, independent claims 17 and 35 were also rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,657,098 to Niki, et al. in view of U.S. Patent No. 6,639,004 to Falat, et al. However, it is respectfully submitted that Niki, et al., either alone or in any proper combination with Falat, et al., fail to teach or suggest certain limitations of the presently pending claims.

In this regard, the presently pending claims require a substrate that has a surface that is coated with a durable activated carbon ink, the activated carbon ink including activated carbon particles and at least one binder. In addition, the claims now further clarify that the substrate has a surface that is coated with a durable activated carbon ink that is durably attached to the substrate. The claims have also been amended to clarify that the odor sorbent substrate is liquid pervious. Support for these amendments can be found in the present application, including Paras. [0029] and [0078]. As described in the present application, “[t]he formulation of the invention containing sorbent and binder dries to produce a durable treatment that will not migrate or fall off when in use or transport.” Para. [0041].

By sharp contrast, Niki, et al. describes a “deodorizing agent-containing sheet” that is obtained “by forming a slurry containing a porous deodorizing agent and a fibrous material into a web by a usual wet papermaking process.” Col. 5, lines 1-6. In other words, Niki, et al. does not teach or suggest a substrate that is coated with a durable activated carbon ink that is durably attached to the substrate. A shortcoming of the slurry approach of Niki, et al. is that the deodorizing agent is prevented “from falling off” only because “the deodorizing agent-containing sheet” is “held between two pulp

sheets." Col. 3, lines 7-8. As described in Niki, et al., since the deodorizing agent-containing sheet is covered with the pulp sheet, the "porous deodorizing sheet is prevented from running out of the absorbent member...together with the absorbed body fluids and therefore prevented from soiling the body or the clothes." Therefore, the "deodorizing agent-containing sheet" of Niki, et al. fails to teach or suggest a substrate that is coated with a durable activated carbon ink that is durably attached to the substrate as is required by the pending claims.

Also, Niki, et al. explains that the porous deodorizing agent described therein should desirably be hydrophobic. Col. 3, lines 61-62. Indeed, it is stated that "[s]uch a porous deodorizing agent is hardly wetted with excreta and thereby prevented from lessening its deodorizing performance." Id at lines 64-66. Such a statement implies that the "deodorizing agent-containing sheet" of Niki, et al. is not liquid pervious as required by the pending claims.

Furthermore, it is respectfully submitted that Falat, et al. does not remedy the deficiencies of Niki, et al., nor would a combination of these two references be proper. Falat, et al. is directed to packaging material that is formed from a LDPE film coated with an aqueous solution of activated carbon. As correctly noted by the Examiner in a previous Office Action, however, Falat, et al. fails to disclose various limitations of the present claims. For example, Falat, et al. fails to disclose any absorbent articles.

Nevertheless, the Office Action indicated that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the activated carbon ink consisting of activated carbon particles and at least one binder as taught by Falat for the substrate of Niki since Falat states that the benefit of such is that it absorbs waste odors and is durable, i.e., does not fall off the substrate to which it is applied." Pages 8-9, August 26, 2010 Office Action. However, Falat, et al. is directed to a "packaging" material for packages, trash bags, pouches, etc. Niki, et al., on the other hand, is directed to an absorbent article. Respectfully, one of ordinary skill in the art would not have looked to a reference dealing with trash bags in an attempt to bring certain of its components into a reference dealing with absorbent articles. In fact, both references teach away from the pending claims in that Niki, et al. describes a hydrophobic "deodorizing agent-containing sheet" and Falat, et al. expressly

contemplates the use of its activated carbon material on a LDPE film, which is impermeable to liquids.

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). Furthermore, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. M.P.E.P. §2141.02.

Here, both Niki, et al. and Falat, et al. describe layers that are impermeable to liquids. As such, it is respectfully submitted that the present claims patentably define over the cited references.

The Office Action also reiterates that Falat, et al. contemplates "that other flexible substrates such as paper onto which there is applied a polymer coating, or laminates of paper and polymer films can be used." Col. 1, lines 49-51. However, such so-called cellulose materials still do not describe liquid pervious materials. While "a reference must be considered not only for what it expressly teaches, but also for what it fairly suggests," *In re Burckel*, 592 F.2d 1175, 1179, 201 USPQ 67, 70 (CCPA 1979), here there is simply no express teaching or suggestion for a liquid pervious substrate having a surface that is coated with a durable activated carbon ink that is durably attached to the substrate, the activated carbon ink including only activated carbon particles and at least one binder.

Applicants emphasize that the issue in conducting an analysis under 35 U.S.C. §103(a) is not whether a theoretical re-design of a device is *possible*. Instead, the issue hinges on whether the claimed invention *as a whole* would have been obvious. In this case, the Office Action parsed and dissected only certain portions of the references, and then used these dissected portions in a way that would require a substantial reconstruction of the references. Respectfully, the Office Action is using the present application as a "blueprint" for selectively re-designing the reference, which is improper under 35 U.S.C. § 103. Applicants respectfully submit that one of ordinary skill in the art would not have found it obvious to modify the references in the manner suggested in the Office Action.

Thus, for at least the reasons set forth above, Applicants respectfully submit that independent claims 17 and 35 patentably define over the cited references. Further, at least for the reasons indicated above relating to corresponding independent claims 17 and 35, the corresponding dependent claims also patentably define over the references cited. However, the patentability of the dependent claims certainly does not hinge on the patentability of the independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims.

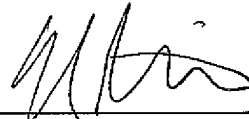
For instance, new claims 46 and 47 require an odor sorbent substrate that can endure at least 10 cycles of a Taber Abrasion test without visible transfer of the durable activated carbon ink coating. Support for this amendment can be found in the present application, including Para. [0042]. As discussed previously, the deodorizing agent of Niki, et al. is only prevented "from falling off" because "the deodorizing agent-containing sheet" is "held between two pulp sheets." There is simply no teaching or suggestion for an odor sorbent substrate that can endure at least 10 cycles of a Taber Abrasion test without visible transfer of the durable activated carbon ink coating.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Chapman is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully requested,

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